

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25064 of 2024

Arising Out of PS. Case No.-316 Year-2021 Thana- Kharagpur District- Munger

Bipin Mandal SON OF SURO MANDAL Resident of Village -Dhudhladih
(Ghughladih) PS -Kharagpur Distt- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjiv Kumar Singh

For the Opposite Party/s : Mr.Surendra Kumar

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

5 12-09-2024 I have already heard the learned counsels for the parties.

2. This is an application for regular bail on behalf of the petitioner for the offences alleged under Sections 171C and 506 of the Indian Penal Code and Sections 13, 16, 18, 20 of the Unlawful Activities (Prevention) Act, 1967, hereinafter to be referred to as 'the Act', registered in connection with Kharagpur P.S.Case No. 316 of 2021 (S.T.No. 481 of 2022).

3. The prosecution case, in brief, is that the SHO of Kharagpur police station found a printed *purcha*, which is said to have been thrown by the Naxalites in the village-Parsando Das, with the intention to terrorize the voters of the election. Similar *purcha* was also found from the shop of Garib Das. In



that *purcha*, the voters were asked not to participate in the election. It has been mentioned in the FIR that the Naxalites Organization wanted to terrorize the public and affect the *panchayat* election, 2021.

4. The learned counsel for the petitioner, while drawing my attention towards a ***Full Bench judgment dated 27.03.2015, passed in Criminal Appeal (FB) No. 149 of 2015 (Bahadur Kora Vs. The State of Bihar)*** with its analogous cases, submitted that in the offences punishable under ‘the Act’, the State Agency has no jurisdiction to investigate, unless the National Investigating Agency (NIA) hands it over to the State Investigating Agency (SIT). As such, the inception of the case itself is bad in the eye of law. Learned counsel submitted further that there is no evidence against the petitioner at all, showing his involvement in the alleged occurrence. He also submitted that the Full Bench judgment had arisen out of Kharagpur P.S. Case No. 299 of 2013 of district Munger and after the judgment of the Full Bench, one of the accused of that case was granted bail in Cr.Misc.No. 18096 of 2015 under the order dated 16.03.2016.

5. The relevant portions of the Full Bench judgment passed in the said case is being reproduced hereinbelow:-

“We, therefore, hold that

(A) the judgment in Aasif’s case (supra),



insofar as it held that investigating agency of the State Government can investigate and try offences in accordance with the provisions of the N.I.A. Act, in the cases where offences punishable under the Unlawful Activities (Prevention) Act are alleged, and that such cases must be tried by the Courts of Sessions under Sub-section (3) of Section-22 of the N.I.A. Act, cannot be said to have laid the correct law;

(B) the cases even where offences punishable under the provisions of U.A.P. Act are alleged shall be tried by the courts as provided for under the Cr.P.C. and not in accordance with the special procedure, under the Act unless (i) the investigation of such cases is entrusted by the Central Government to the N.I.A. and (ii) the N.I.A. transfers the same to the investigating agency of State Government.

The appeals shall be treated as bail applications, to be heard under Section-439 of Cr.P.C. and the registry shall place the same before the learned Single Judges after requiring the parties to alter the provisions of law;

(C) all the cases in the State of Bihar, which are being tried by the Courts of Sessions, on the basis of the judgment of this Court in Aasif's case (supra), shall stand transferred to the courts that otherwise have jurisdiction to try them; and

(D) none of the steps taken in such



cases that were pending before the Court of Sessions shall render the investigation or trial, invalid or unlawful”

6. The facts of this case are exactly similar to the case of ***Bahadur Kora (supra)***. In this case also, the State Agency was conducting investigation despite the fact that the National Investigating Agency (NIA) has not transferred the same to the State Investigating Agency (SIT).

7. Considering the above facts and circumstances, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Munger in Kharagpur P.S.Case No. 316 of 2021 (S.T.No. 481 of 2022), subject to the condition that the petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(Nawneet Kumar Pandey, J)

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